

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

HERMAN REED,

Petitioner,

v.

ISIDRO BACA, et al.,

Respondents.

Case No. 3:13-cv-00426-MMD-WGC

ORDER

This *pro se* habeas matter is before the Court on petitioner's motion for stay and abeyance. (Dkt. no. 17.) Respondents oppose. (Dkt. no. 18.)

On June 24, 2015, this Court granted respondents' motion to dismiss in part, dismissing three grounds and concluding that grounds 5 and 6 are unexhausted. (Dkt. no. 16.) On July 20, 2015, petitioner Reed filed what he styled as a motion for stay and abeyance pursuant to *Rhines v. Weber*, 544 U.S. 269 (2005). (Dkt. no. 17.) His one-page document simply asks the Court to stay and abey his unexhausted claims in order that he may return to state court. Respondents correctly point out that Reed provided no supporting points and authorities or argument of any kind. (Dkt. no. 18.) Local Rule 7-2(a) requires that all motions be supported by a memorandum of points and authorities. If the party filing the motion fails to file the points and authorities, that failure constitutes consent to the denial of the motion. LR 7-2(d). Reed did not file a reply in support of his motion.

As this Court has previously explained, it may stay a petition containing both exhausted and unexhausted claims if: (1) the habeas petitioner has good cause; (2) the

1 unexhausted claims are potentially meritorious; and (3) petitioner has not engaged in
2 dilatory litigation tactics. *Rhines*, 544 U.S. at 277; see also *Wooten v. Kirkland*, 540 F.3d
3 1019, 1023-24 (9th Cir. 2008). Here, Reed has provided no argument or support
4 whatsoever to demonstrate that stay and abeyance of his federal petition is warranted.
5 Accordingly, the Court must deny his motion.

6 It is therefore ordered that petitioner's motion for stay and abeyance (dkt. no. 17)
7 is denied.

8 It is further ordered that within sixty (60) days of the date of this order,
9 respondents will file their answer to the remaining grounds.

10 It is further ordered that within forty-five (45) days of the date the answer is filed,
11 petitioner Reed will file his reply to the answer, if any.

12 DATED THIS 4th day of November 2015.



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14 MIRANDA M. DU
15 UNITED STATES DISTRICT JUDGE
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